

VZCZCXRO2746
RR RUEHCHI RUEHDT RUEHHM RUEHNH
DE RUEHPF #0539/01 2150158
ZNR UUUUU ZZH
R 030158Z AUG 09
FM AMEMBASSY PHNOM PENH
TO RUEHC/SECSTATE WASHDC 1004
INFO RUCNASE/ASEAN MEMBER COLLECTIVE

UNCLAS SECTION 01 OF 03 PHNOM PENH 000539

SENSITIVE
SIPDIS

STATE FOR EAP/MLS, P, D, DRL, S/WCI

E.O. 12958: N/A

TAGS: PGOV PHUM KJUS PREL EAID CB

SUBJECT: Khmer Rouge Tribunal: The Trial of S-21
Interrogation Center Head Kaing Guek Eav, Week 14

REF: PHNOM PENH 513 AND PREVIOUS

¶1. (SBU) SUMMARY: Embassy staff routinely observes the proceedings of the trial against the notorious Khmer Rouge torture center head, widely known as Duch, at the Extraordinary Chambers in the Courts of Cambodia (ECCC) (Reftel). This report summarizes the fourteenth week of activities inside the court at the Khmer Rouge Tribunal. More technical accounts of the proceedings can be found at: www.csd cambodia.org; www.kid cambodia.org and at <http://socrates.berkeley.edu/~warcrime/>. END SUMMARY.

Local Staff at the Court

¶2. (SBU) This week marks the first time that the Embassy's locally employed staff (LES) have attended and reported on the trial. Several LES have noted a keen interest in observing the trial live, as many of their families suffered under the Khmer Rouge regime. LES attendees complete observation sheets in English or Khmer, and they can fill out an optional section on their personal views of the ECCC.

¶3. (SBU) This week featured only two days of courtroom proceedings, focused on two former S-21 staffers' accounts of working conditions and procedures at S-21. The first witness drew skepticism from some of the judges and much of the audience when he was unable to answer seemingly simple questions regarding his time at S-21, while the second witness' testimony prompted the defendant Duch to again state his guilt, noting that he was the "top criminal" responsible for all crimes committed at S-21. The defense focused its questioning of the second witness on why he chose to remain in his job if he did not enjoy it, attempting to link the witness' fear of his supervisor to Duch's fear of the Khmer Rouge leadership.

¶5. (SBU) Herewith are observation notes for the week beginning July 27, 2009:

Monday, July 27:

There were approximately 500 people observing the trial, a slight increase from past weeks and near to the full capacity of the ECCC auditorium. Ninety percent of the audience was Cambodian, and most audience members were men. There were about 50 students from the Royal University of Phnom Penh.

Two former staff members of Tuol Sleng Prison testified in today's hearing. The first, Kok Sros, claimed to have been a security guard at S-21. He said that his duties rotated on a monthly basis, and that he worked both inside and outside the campus. He claimed that he was assigned to guard Building D inside S-21. However, he repeatedly stated that he couldn't remember specific details about his time at S-21. For example, he could not remember the name of the head of his security guard unit. The Cambodian audience members seemed to become frustrated by Kok Sros' inability to answer the judges' questions and frequently reacted audibly when he said he couldn't remember something. Duch later told the judges that he was not convinced that Kok Sros was actually a guard at S-21.

Registrar: Only Duch Could "Smash"

The second witness, Sous Thy, was the prisoner registrar at S-21 from late 1975 to January 1979. He told the court he was asked to be on-call 24 hours a day to register incoming prisoners, who were handcuffed and blindfolded when brought to the prison. He said he was also ordered to list outgoing prisoners as they were taken from Tuol Sleng to be executed. He added that only Duch had the authority to order anyone to be "smashed" (i.e., executed).

Overall the court proceedings seemed to run well. All attorneys stayed within the mandated timeframes for questioning. The civil party lawyers agreed to allow one representative question the witnesses. Deputy co-prosecutor Anees Ahmed caught a small mistranslation of the number of young detainees described by Sous Thy. Head Judge Nil Nonn intervened to clarify the prisoner count for the record.

Tuesday, July 28:

The trial chamber opened with a civil party lawyer requesting additional time to question the witness, as the forty minutes allotted to all civil parties is not sufficient to represent their clients appropriately. President Nonn responded that the time allocation was distributed amongst the co-prosecutors, civil parties, and defense proportionally to the original time allotted. Nonn directed the civil parties to talk amongst themselves to divide up their now sixty minutes and to focus on the main facts before the chamber and to not waste time.

PHNOM PENH 00000539 002 OF 003

Judges on Lists, Children, Documentation

President Nonn continued to interview the Suos Thy, a middle-echelon S21 staff member whose primary function was to keep prisoner lists and biographies. It appeared that President Nonn was seeking to establish/verify exactly what role Suos Thy held at S21, and Suos Thy was very consistent and repetitive in saying all he did was verify his lists and biographies and he did not pay attention to the prisoners or what other offices (specifically interrogation and medical) did.

Judge Cartwright questioned Thy on the children that were processed through S-21. Thy maintained that he did not have records pertaining to children or totals of the number of children killed, and that he knew nothing about what happened to the children although he assumed they were also killed.

Judge Lavergne was the final judge to question Suos Thy. Lavergne asked about the archiving of documents and the drafting of confessions, if the detainees were allowed to keep any objects, and if the arrival of Vietnamese troops was a great surprise and if there was plan in place to destroy documents. Thy testified that they did not know about the situation outside of S21 or of the Vietnamese troops reaching Phnom Penh, and that there was no plan in place to destroy documents. Thy steadfastly testified that he only paid attention to his duties maintaining the detainee lists and biographies.

Chain of Command

The Co-Prosecutors asked about specific names listed on documents and specific people shown in photos, prisoners who died at S21, and the chain of command at S21. Thy repeatedly testified that he did not pay attention to other units and he was constantly busy with his own duties. He said that all decisions were ultimately made by Duch and carried out through his chain of command. He also testified that there was no maximum capacity and detainees were constantly moving in and out of S21 and that he also could not calculate the total number of prisoners as he was busy with his duties.

Each civil party group took the same amount of time in questioning Suos Thy. Civil party groups four, three, and two asked questions that had already been answered previously, with Thy consistently and repeatedly testifying that he did not remember specific individuals, he was not closely associated with the interrogation unit, and that Duch was the ultimate decision maker at S-21.

Attitude Toward S-21 Work

Defense Counsel Kar Savuth was the final person to question Suos Thy. Savuth began with questions again establishing hierarchy at S21, followed by questions about torture. His final line of questioning garnered the strongest reaction from the court observers. Savuth asked if Thy enjoyed his work. Thy responded that he did not like his work, but under the Khmer Rouge, if you were assigned to a job, you could not object. Savuth then asked why Thy did not leave his job if he disliked it. Thy responded that during the regime, there were no private citizens and he would have been arrested, so he had to force himself to do the tasks as there was nowhere to go or to stay. Savuth asked if all of the staff disliked their jobs. Thy responded that all staff disliked the regime. Savuth asked if he was scared working at S21. Thy said that fear was always with him because of what he saw, and he knew that once an individual was arrested, that person would be killed. He testified that his work was under the orders of the upper echelon, and if he didn't do it he would be punished. He said he regretted what he had done.

President Nonn gave Duch the opportunity to speak. Duch clarified a few names/situations that had come up in Suos Thy's testimony and then stated that Suos Thy's testimony reflected the truth. He closed by saying that he understood the psychological impacts on and fear of Thy, that he appreciated Thy's testimony, noting that he (Duch) was the top criminal responsible for all acts, and that no one should suffer in his place.

Remorse-filled, Fearful Witness

Throughout the session, Suos Thy never looked away from the computer monitor on the witness stand desk directly in front of him. He did not make eye contact with anyone who was questioning him and never looked at Duch. It was clear he was filled with remorse and fear. His eyes were closed for half of his testimony. Duch was calm throughout the session and followed the proceedings and testimony very carefully. When he spoke at the end of the day he spoke to the

PHNOM PENH 00000539 003 OF 003

witness and was looking at him the entire time he was speaking.

The crowd did not react much until the final series of questions from the Defense.

RODLEY